

**MINUTES OF THE  
PRIVATE PROTECTIVE SERVICES BOARD MEETING  
AUGUST 19, 2010  
HOLIDAY INN RALEIGH NORTH  
2805 HIGHWOODS BLVD.  
RALEIGH, NC 27604**

**BOARD MEMBER PRESENT**

Richard Allen  
Robert M. Clark  
James Stevens  
David Pendry  
Bill Booth  
Eric Jones  
Sally Pleasant  
Mack Donaldson

**BOARD MEMBERS ABSENT**

Ron Burris  
Sheriff Jenkins  
Brenda Bishop  
Steve Johnson  
Sheriff Ashe

**STAFF PRESENT**

Terry Wright – Director  
Charles McDarris – Attorney  
Phillip Stephenson – Investigator  
Joyce McClure - Board Secretary  
Garcia Graham - Licensing Assistant

**GUEST PRESENT**

David Arndt	Jeff Kiker	John Williams
Nick Nicholson	David Shelton	Larry Flannery
Michael Cheek	Greg Mason	Gary M. Long
Michael Lane	Jim Davis	Lorin Mueller
Jeff Cathcart	W. Craig Humphrey	Leon Ives
Dorian Dehnel	Ruth Reynolds	Tamara Tarbutton
Gerald W. Snead	Audra Coleman	Michael Cole
Gary Pastor	Scott Pastor	Joseph S. Siske
Brandon Blucher	Neil Mayzik	Leroy Everhart

Gregory Hatten  
Bill Johnson

Gregory Bentley  
Kelly Summey

Mark Zudell  
Brandy Lee

Michael Leighton  
David Pettingell

Suzanne Creech  
Chris Hoover

Sybil Richards  
Karen Johnson

Chairman Richard Allen called the August 19, 2010 Private Protective Services Board meeting to order at 9:30 AM. Mr. Allen welcomed all guests and requested they sign in on all three of the sign in sheets.

Attorney Charles McDarris explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

#### **GOOD OF THE ORDER:**

Mr. Larry Flannery, President of the NCAPI, addressed the Board regarding the current status of the “Hit the Hill Campaign” which will take place on September 28, 29 and 30, 2010 and the importance to NCAPI and the rest of the industry. The association will report back to the Board in October as to the results of the Campaign.

Mr. Flannery also stated that the NCAPI has initiated one day classes to be held throughout the state as a way for the licensees throughout the state keep in touch with what is happening in the industry and the state.

#### **APPROVAL OF THE JUNE 17, 2010 MEETING MINUTES:**

**MOTION BY MR. DONALDSON TO ACCEPT THE MINUTES AS PRESENTED;  
SECONDED BY MRS. PLEASANT; MOTION CARRIED.**

#### **SCREENING COMMITTEE REPORT:**

Mrs. Pleasant reported that the Screening Committee met on Wednesday August 18, 2010 from 2:00 PM until 6:10 PM to review a total of 54 applications. There was 1 Withdrawal, 6 Denials and 4 Deferrals; the remainder of the applications were approved (see report). Committee members were, Mrs. Bishop, Mrs. Pleasant and Mr. Pendry. Mrs. Pleasant read the report for the record.

Mrs. Pleasant presented the following registration report for the period of June 15, 2010 through August 17, 2010. Total registrations 3754; armed totals were 587 of which 218 were new, 324 were renewals, 1 duplicate and 44 reissue/dual. There were 2 new armed Private Investigators, 5 armed renewal Private

Investigators and 4 new armed Private Investigator Associates. Unarmed totals were 3,156 which include 1,091 new, 1,797 renewals, 253 transfer, 9 duplicates and 6 reissues/dual. Total denials 712 of which 245 were for cause and 467 were for correctable. There were 616 applications approved which were previously denied for a total of 1,328 denials reviewed.

Director Wright reviewed the additional issues that were addressed at the Screening Committee meeting. Ms. Patricia Raffield was approved for her Unarmed Guard Trainer Certification and Mr. Tony Bullock was approved as the Qualifying Agent for two companies.

**MOTION BY MR. CLARK TO ACCEPT THE SCREENING COMMITTEE REPORT AND THE REGISTRATION REPORT; SECONDED BY MR. STEVENS; MOTION CARRIED.**

**GRIEVANCE COMMITTEE REPORT:**

Mr. Stevens reported the committee met on Wednesday August 18, 2010 from 8:00 AM until 12:20 PM and heard a total of thirteen cases. The committee members were Mr. Booth, Mr. Stevens, and Mr. Donaldson. Mr. Stevens presented the attached report. (See attachment)

**MOTION BY MRS. PLEASANT TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. BOOTH; MOTION CARRIED.**

**FINAL AGENCY DECISIONS -**

Attorney Charles McDarris deferred until the Attorney's Report is presented.

**TRAINING & EDUCATION COMMITTEE:**

Mr. Stevens advised the Training & Education Committee met on Thursday August 10, 2010 from 8:35 AM. until 9:20 AM. The committee members were Mr. Stevens, Mr. Clark, Mr. Booth, Richard Allen and Mrs. Pleasant.

Mr. Stevens read the training report. The following trainer courses are scheduled:

September 13-17, 2010	Firearms Trainer Certification course	NCJA
September 28, 2010	Firearms Trainer Re-Certification course	NCJA
November 12, 2010	UGT Course Workshop	WTCC
November 16, 2010	Firearms Trainer Re-Certification course	NCJA

**UGT Course Cancellation Due to Construction**

August 20, 2010	UGT Course Workshop	WTCC
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**The following PPS trainer courses have been completed:**

July 19-23, 2010	UGT Course Workshop	WTCC
15 total with 2 CJ Instructors		

1 failed the test

Presently we have 346 unarmed guard trainers and 107 armed guard trainers.

Mr. Stevens advised that there were a number of issues discussed regarding the Continuing Education Courses. He advised that there was an affidavit that was to be approved for the verification of the courses that were taken and a maximum of six hours of credit for online training during the renewal period. The affidavit, along with the Course Certificate must both be submitted prior to the renewal of the license.

**MOTION BY MR. BOOTH TO APPROVE THE AFFIDAVIT FORM; SECONDED BY MR. CLARK; MOTION CARRIED.**

The Training and Education Committee approved a total of 27 Continuing Education Courses. The course submitted by Mr. Bert Croom previously was reformatted and was recommended for approval. The sub-committee also recommended that the following courses be approved: Basic Mobile Phone Forensics and Data Recovery; Roadway Tire Mark Analysis for Investigators; Introduction to Basic Fire Investigations; DNA Specimen Collection, Preservation and Analysis; Conducting Background Investigations and Researching Public Records; How can the polygraph help my business?; Basics of Data Recovery; Covert Surveillance for Private Investigators; Ethics and Private Investigations; Interviewing Techniques and Truth Verification; Sources of Information for Private Investigators; Legal Aspects of Private Investigations; Principle of Private Investigations: IP Cybercrime Boot Camp;

In addition the Training and Education Committee recommended that Learning Shop USA courses submitted by Mr. John Fay be deferred until a later time.

**MOTION BY MR. JONES TO APPROVE THE COURSES; SECONDED BY MR. CLARK; MOTION CARRIED.**

The Training and Education Committee addressed an inquiry regarding the payment structure for the firearms instructor training courses taught at the Justice Academy. The request was to have the payment restructured so that law enforcement instructors who only have to shoot on the first day and attend the legal block instruction on the last day is not included in the course calculation as if they were there all week. The committee recommended that the Board uphold the current fees and the policy.

**MOTION BY MR. BOOTH TO UPHOLD THE CURRENT FEES AND POLICY FOR THE FIREARMS INSTRUCTOR COURSE HELD AT THE JUSTICE ACADEMY; SECONDED BY MRS. PLEASANT; MOTION CARRIED.**

There were two courses submitted for approval that were determined to be mandated courses and were not deemed to be eligible for continuing education credits. The two courses were the initial armed guard firearms course and the armed guard renewal course.

**MOTION BY MR. BOOTH THAT ANY TRAINING COURSES THAT ARE MANDATED OR REQUIRED NOT BE ACCEPTED FOR CONTINUING EDUCATION CREDITS; SECONDED BY MRS. PLEASANT; MOTION CARRIED.**

**GRIEVANCE COMMITTEE REPORT :**

Mr. Stevens stated that previously Judge Burris had remarked that many cases were being delayed due to lack of response for requests for information and he recommended that penalties be issued for individuals not responding to the complaint.

Director Wright stated that there were two statutes that would address Judge Burris concerns. Those statutes are 74C-12(a)(29) and (30) which states the following:

(29) Failed or refused to reasonably cooperate with the Board or its agents during an investigation of any complaint, allegation, suspicion of wrongdoing, or violation of this Chapter.

(30) Failed to properly make any disclosure to the Board or provide documents or information required by this Chapter or rules adopted by the Board.

Staff recommends that a letter from the investigator and/or the Director advising the individual of the above statute and give them a time frame to provide the requested information. If the information is not received within that time frame then a subpoena would be issued to obtain said information. The final action would be to request a court order.

Institute a new process to continue cases:

Individuals requesting that a Grievance matter be continued, must submit the request to the Director specifying the reasons for the continuance. The case will be continued at the discretion of the Director. An individual will not be granted more than one request to continue a case by the Director. Any subsequent request must be approved by the Grievance Committee.

Any other request to continue the case will be determined by the Grievance Committee. The licensee will be invited to make the request before the Grievance Committee.

**MOTION BY MR. BOOTH TO ADOPT STAFF'S RECOMMENDATIONS AS OPERATING POLICY, THE FIRST TO ADDRESS THE RESPONSE TO INFORMATION REQUESTS AND THE SECOND TO ADDRESS CONTINUANCE, ANY NON-COMPLIANCE WILL CONSTITUTE A VIOLATION; SECONDED BY MR. STEVENS; MOTION CARRIED.**

**SCREENING COMMITTEE REPORT - NONE**

**74C RE-WRITE COMMITTEE - NONE**

**OUT OF STATE CRIMINAL RECORD CHECKS :**

Mr. Donaldson stated that effective September 1, 2010 all out of state criminal record checks will be required to come from CriminalRecordCheck.com. The proposal was completed and went through the State Purchasing Contract as well as the Department of Justice Purchasing Contract and was awarded to Criminal Record Check.com.

Mr. Dorian Dehnel is present to answer any questions regarding the process. Mr. Dehnel gave an overview as to how the process would work. He stated that the process should streamline the out of state criminal record checks for all applicants. Mr. Dehnel further stated that the average turnaround time will be 48 to 72 hours and the results would be released as soon as the payment has been received.

Mr. McDarris stated that this system was for out of state criminal record checks but could be used for in-state as well.

**FINAL AGENCY DECISION:**

Mr. McDarris removed himself as Counsel to the Board.

Michael Luther Cole was present for case 10 DOJ 1102, which appealed the denial of Petitioner's application for armed guard registration for lack of good moral character and temperate habits based on multiple convictions of Driving While License Revoked. Administrative Law Judge Melissa Lassiter recommended the denial be reversed and the petitioner be issued an armed guard registration.

Michael Cole was asked to see if he would like to have the court cases resolved and return to the Board for reconsideration.

**MOTION BY MR. CLARK TO DEFER THE CASE; SECONDED BY MR. BOOTH; MOTION CARRIED.**

Thomas Neil Marshall was notified of the final agency decision but was not present for 09 DOJ 3340 regarding the denial of his application for armed security guard registration. Administrative Law Judge Beecher R. Gray recommended that the Board uphold its initial decision to deny the petitioner's application for armed security guard registration.

**MOTION BY MR. DONALDSON TO UPHOLD THE ORIGINAL DECISION OF THE BOARD TO DENY THE APPLICATION; SECONDED BY MR. STEVENS; MOTION CARRIED.**

**MOTION BY MR. JONES TO GO INTO CLOSED SESSION TO HEAR THE FOLLOWING MATTER WHICH CONTAINS CONFIDENTIAL MILITARY RECORDS ; SECONDED BY MR. BOOTH; MOTION CARRIED.**

John Williams was present for 10 DOJ 1007 denial of application for an unarmed security guard registration for lack of good moral character and temperate habits because of a 1980 court martial verdict when he

was serving in the US Army.

Administrative Law Judge Fred G. Morrison recommended that the Board reverse its initial decision to deny the petitioner's renewal and renew his unarmed guard permit.

**MOTION BY MRS. PLEASANT TO COME OUT OF CLOSED SESSION; SECONDED BY MR. BOOTH; MOTION CARRIED.**

**MOTION BY MR. BOOTH TO HAVE THE APPLICANT GET LETTERS OF RECOMMENDATION AND RETURN TO THE BOARD IN OCTOBER; SECONDED BY MR. PENDRY; MOTION CARRIED.**

Possible settlement with Richard Johnson in Robeson County. The Board recommended Mr. McDarris to move forward with the court case.

**OLD BUSINESS – NONE**

**NEW BUSINESS:**

Election of officers of the Board conducted by Mr. McDarris

Nominations were taken for Board Chairman. Mr. Pendry nominated Mr. Allen; seconded by Mrs. Pleasant. Mr. Donaldson made a motion to close the nominations; seconded by Mr. Clark. Motion carried. Mr. Allen was elected Chairman of the Board by affirmation.

Nominations were taken for Vice Chairman. Mr. Booth nominated Mr. Stevens; seconded by Mr. Allen. Mrs. Pleasant made a motion to close the nominations; seconded by Mr. Donaldson. Motion carried. Mr. Stevens was elected Vice Chairman by affirmation.

Nominations were taken for Chairman of the Grievance Committee. Mrs. Pleasant nominated Judge Burris; seconded by Mr. Clark. Mr. Donaldson made a motion to close the nominations; seconded by Mr. Clark. Motion carried. Judge Burris was elected Chairman of the Grievance Committee by affirmation.

Nominations were taken for Chairman of the Screening Committee. Mr. Stevens nominated Mrs. Bishop; seconded by Mrs. Pleasant. Mr. Donaldson made a motion to close the nominations; seconded by Mrs. Pleasant. Motion carried. Mrs. Bishop was elected Chairperson of the Screening Committee by affirmation.

Nominations were taken for Chairman of the Training and Education Committee. Mr. Booth nominated Mr. Stevens; seconded by Mr. Clark. Mr. Allen made a motion to close the nominations; seconded by Mrs. Pleasant. Motion carried. Mr. Stevens was elected Chairman of the Training and Education Committee by affirmation.

Nominations were taken for Chairman of the 74C Rewrite Committee. Mr.Stevens nominated Judge Burris; seconded by Mrs. Pleasant. Mrs. Pleasant made a motion to close the nominations; seconded by Mr.Clark. Motion carried. Judge Burris was elected Chairman of the 74C Rewrite Committee by affirmation.

Nominations were taken for Chairman of the Finance Committee. Mr.Clark nominated Mrs. Pleasant; seconded by Mr. Pendry. Mr.Clark made a motion to close the nominations; seconded by Mr.Pendry. Motion carried. Mrs. Pleasant was elected Chairperson of the Finance Committee.

Mr. Stevens complimented the leadership of the Chairman of the Board and all that has been accomplished during his tenure as Chairman.

Mr. Flannery, on behalf of the Association, thanked the Board for the work they have done and for working with the association.

Mr. Clark commended Mr. Flannery for his work as the President of the association and all of the board members of NCAPI.

Chairman Allen commented that this also is his last year on the Board and wanted to thank everyone for their confidence since he has been on the Board.

Chairman Allen asked Director Wright to address some issues staff is having regarding the insurance requirements upon renewal of a license. Director Wright reinforced the fact that the statute requires licensees to provide staff with documentation of their insurance each year, although there is a two year licensing period. Director Wright stated that prior to renewing a license, staff must have documentation in the file, licensees who are required to carry liability insurance per 74C-10 did in fact have insurance for both years of the licensing period.

Mr. Mark Zudell addressed the Board regarding being on the list for two years for submitting a non - sufficient fund check. He asked the Board not to penalize his company, SSA Security for his mistake when he submitted the check.

**MOTION BY MR. BOOTH TO TAKE SSA SECURITY, INC. OFF OF THE NSF LIST; SECONDED BY MR. STEVENS; MOTION CARRIED.**

Chairman Allen asked Director Wright to look at the possibility of scheduling a meeting in the western part of the state so that licenses will have an opportunity to attend in order to obtain CE credits.

**MOTION BY MR. JONES TO HAVE STAFF EXPLORE THE POSSIBILITY OF A MEETING IN THE WESTERN PART OF THE STATE; SECONDED BY MR. BOOTH; MOTION CARRIED.**

**DIRECTOR'S REPORT:**

Mr. Wright presented his written report. The budget as of June 29, 2010 has a balance of \$403,622.61; the Education Fund balance is \$109,958.01. As of August 16, 2010 we have a total of 15,029 PPS registrations, 1,771 licenses, 458 certifications, one endorsement for a total of 17,259 active personnel for PPS. Active licenses and registrations for both Boards are 23,182.

Mr. Wright noted that there has been a total of 2,790 various correspondence printed from the PPS database, 4,666 registration cards printed from the new identification card system, and 4,530 applications received since the last Board meeting.

Mr. Stevens asked Director Wright whether or not the applications were increasing or decreasing. Director Wright stated that for both Boards during the same time period as last year, the applications increased by 3.28% overall.

**MOTION BY MR. BOOTH TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. STEVENS; MOTION CARRIED.**

Director Wright asked the Board for guidance regarding an individual who was requesting an opinion as to whether a license was required if they were to go into the judgement recovery business. The Board decided that if the judgement is purchased, then a license would not be required.

**MOTION BY MR. BOOTH THAT IN THIS CASE A LICENSE WOULD NOT BE REQUIRED; SECONDED BY MR. STEVENS; MOTION CARRIED.**

**ATTORNEY'S REPORT:**

Consents and Settlement Agreements are all current, executed, and paid .

Mr. McDarris stated that all of the current appeals have been filed with the Office of Administrative Hearings and are listed in the Attorney's report.

12 NCAC 7D .0201, (.0203, .0701, .0801, .0902 ) are all technical amendments regarding the criminal record check and are being held pending the decision of the Third Party Criminal Record Check Committee and will be brought back to the October meeting.

12 NCAC 7D .0807 is the proposed amendment to change the "duty ammo" to "ballistic equivalent " and additional attempts to pass the firearms course after initial failure is now before the Rules Review Commission.

12NCAC 7D .0404 amends the maintenance requirements for reports is now before Rules Review Commission.

12 NCAC 7D .0203, .0706, .0806, .0904, .0911 address the extension of time to renew for military personnel is now before the Rules Review Commission.

12 NCAC 7D .0202, .0702, .0802 address the increase in fees and were approved by the Rules Review Commission.

12 NCAC .0701 a technical amendment to the rule is going through the process and will be presented to you at the next meeting.

12 NCAC 7D .1200 addresses the repeal of the courier experience requirements and will be before you at the next meeting for adoption.

12 NCAC .0201 this is the amendment to require applicants to meet with staff and will be before you at the next meeting for adoption.

Miscellaneous items include the following:

An injunction was filed in Superior Court against Mr. Thomas Frey, Mr. Frey 's attorney is no longer representing him ;however, we are going forward in this matter.

Mr. McDarris stated that there is an inconsistency in the wording in the third party criminal record checks that needs to be clarified. If the applicant was born and raised in North Carolina and has not lived out of state, they can use the old way of obtaining criminal record checks. If they have lived in-state and out of state do they have the right to choose whether or not to run the North Carolina check since the RFP states that is mandatory to run the North Carolina background check?

Can they opt out since the RFP is very explicit. Dorian Dehnel stated that to eliminate this requirement it would require an opt out code. There still would be a requirement to obtain the North Carolina addresses even with an opt out code.

PPSB v. Richard Johnson - Motion to Show Cause has been filed in Robeson County Superior Court. It was scheduled in June, but the Judge had to withdraw for a conflict.

That concluded the Attorney's report.

**MOTION BY MR. STEVENS TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. JONES; MOTION CARRIED.**

**MOTION BY MR. STEVENS TO ADJOURN; SECONDED BY MR. BOOTH; MOTION CARRIED.**

12:00 AM Adjourned

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Terry M. Wright, Director

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Joyce McClure, Board Secretary